

Congress of the United States
Washington, DC 20515

October 7, 2022

The Honorable Lina M. Khan
Chair
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

Dear Chair Khan,

We write to express our concerns regarding the significant rise in gasoline prices across California over recent weeks despite the stability of global crude prices. Given these gas price increases, which far exceed increases in other states, we urge you to investigate whether oil refiners in California may be engaging in non-competitive practices.

According to the latest available data from the U.S. Energy Information Administration, gas prices in California rose by nearly 60 cents over the past week despite crude prices remaining relatively stable.¹ This gasoline price increase was the highest in the country, and the average gasoline price in California is now \$2.55 above the national average.²

One contributing factor for the enhanced disparity in prices between California and the rest of the nation is that at least six of the state's 17 refineries are undergoing maintenance.³ Oil refineries tend to schedule planned maintenance once every few years after the summer months. Additionally, in recent weeks, these routine procedures have overlapped with unplanned maintenance at other refineries throughout the state, leading to low inventory levels and elevated prices.

While maintenance is a normal occurrence at refineries, this degree of divergence from national prices is unprecedented, regardless of planned or unplanned refinery maintenance.⁴ Even as gas prices continue to increase, the industry has provided no clear explanation on why prices are rising so rapidly as well as how refineries are making decisions about maintenance or outages. At moments of significant financial hardship for Californians, refiners should be transparent on market dynamics.

We are pleased that Governor Newsom has taken a number of actions to ease the pain at the pump, including through directing the California Air Resources Board (CARB) to allow for an early transition to winter-blend gasoline, which has historically helped reduce gas prices by up to

¹ U.S. Energy Information Administration, <https://www.eia.gov/petroleum/gasdiesel/>

² AAA, <https://gasprices.aaa.com/?state=CA>

³ Sacramento Bee, <https://www.sacbee.com/news/article266751531.html>

⁴ California Energy Commission, Letter to Refiners (September 30, 2022)

25 cents per gallon.⁵ Additionally, Californians are receiving up to \$1,000 through the Middle Class Tax Refund to help defray the high costs of gasoline.

While these state-level actions are helpful, the House of Representatives has also worked over the past several months to address potential price gouging and anti-consumer behavior within transportation fuel markets. In May 2022, we passed the *Transportation Fuel Market Transparency Act* as part of the *Consumer Fuel Price Gouging Prevention Act*, which would crack down on any oil and gas companies that are distorting or manipulating fuel markets by strengthening the Federal Trade Commission's (FTC) authority to address disinformation in oil and gas markets that is meant to inflate retail prices for consumers. It also would establish a new Transportation Fuel Monitoring and Enforcement Unit at the FTC dedicated to defending consumers by monitoring fuel markets and facilitating transparency and competitiveness. The new FTC unit would also report on manipulation or false information used to distort fuel markets and advise the FTC on appropriate penalties for perpetrators. The bill would also double the maximum penalty for manipulating wholesale oil markets to \$2 million per day for each violation. As California faces price spikes without any transparency or justification for such increases, it is more urgent than ever that the Senate pass this bill and send it to the President.

While the House-passed bill would further strengthen FTC's authorities, it is important to note that the FTC already has significant existing authorities to address transportation fuel market manipulation. In 2007, Congress provided the FTC with the statutory authority to oversee wholesale crude oil and petroleum markets and prevent market manipulation. Additionally, the Department of Justice has previously taken action to monitor energy markets for potential legal violations and safeguard against consumer harm by forming an Oil and Gas Price Fraud Working Group in 2011.⁶

Federal oversight across sectors has helped lead to tangible market improvements. For example, the Federal Energy Regulatory Commission (FERC), which, since 2005, has had the authority to investigate manipulation in the electricity and natural gas markets, has used this authority to ensure energy market transparency and investigate non-competitive practices, leading to the recovery of more than \$1.3 billion in civil penalties and illegal profits.⁷

Given this precedent, we urge the Federal Trade Commission (FTC), in collaboration with the Department of Justice, the Department of Energy, and the California Department of Justice, to use its existing authorities to launch an investigation into any potential anti-consumer behavior and market manipulation within California's transportation fuel markets. While refiners and other actors may want to continue operating without transparency and accountability, our constituents deserve to know whether these companies are manipulating markets at the expense of everyday Americans, including through any coordination to affect refining capacity or inventory levels.

⁵ Office of Governor Newsom, <https://www.gov.ca.gov/2022/09/30/governor-newsom-calls-for-a-windfall-tax-to-put-record-oil-profits-back-in-californians-pockets/>

⁶ Department of Justice, <https://www.justice.gov/archives/opa/blog/protecting-consumers-pump-oil-and-gas-price-fraud-working-group>

⁷ Senate Committee on Commerce, Science, and Transportation, <https://www.cantwell.senate.gov/imo/media/doc/Background%20on%20Federal%20Anti-Market%20Manipulation%20Authority.pdf>

Our constituents deserve to know why gas prices in California continue to rise even as the price of oil has not. We urge you to immediately investigate the business practices of refiners across California to analyze whether these companies may be engaging in any anti-consumer behavior.

We thank you for your consideration of this request.

Sincerely,



Mike Levin
Member of Congress



Katie Porter
Member of Congress



John Garamendi
Member of Congress



Nanette Diaz Barragán
Member of Congress



Mark Takano
Member of Congress



Julia Brownley
Member of Congress



Jimmy Panetta
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Pete Aguilar
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cc: Attorney General Merrick B. Garland
Secretary of Energy Jennifer M. Granholm
California Attorney General Rob Bonta